

NANCY ISAACSON, ESQ. (NI/1325)
GREENBAUM, ROWE, SMITH & DAVIS LLP
75 Livingston Ave., Suite 301
Roseland, New Jersey 07068-3701
(973) 535-1600
Attorneys for Creditors, Brian Tucker and Sherri Tucker

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
:
MPM Silicones, LLC., et al.,¹ : Case No. 14-22503(RDD)
:
Debtors. : (Jointly Administered)
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**CROSS-MOTION FOR ORDER FOR THE EXAMINATION OF DEBTORS PURSUANT
TO BANKRUPTCY RULE 2004**

Now comes Brian Tucker and Sherri Tucker (the “Movants”), unsecured creditors in these proceedings, by and through their counsel, and pursuant to Federal Rule of Bankruptcy Procedure 2004 (“Bankruptcy Rule”), hereby move this Court to order examination of Debtors, and to order that the Debtors produce the documents described in the attached Exhibit A prior to the requested examination.

Bankruptcy Rule 2004(b) permits the Court to order the examination of the debtor in regards to the acts, conduct, or property or the liabilities and financial condition of the debtor, or any matter which may affect the administration of the debtor’s estate or any matter which may affect the debtor’s right to a discharge. Bankruptcy Rule 2004(c) permits the Court to order the

¹ The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Juniper Bond Holdings I LLC (9631); (ii) Juniper Bond Holdings II LLC (9692); (iii) Juniper Bond Holdings III LLC (9765); (iv) Juniper Bond Holdings IV LLC (9836); (v) Momentive Performance Materials China SPV Inc. (8469); (vi) Momentive Performance Materials Holdings Inc. (8246); (vii) Momentive Performance Materials Inc. (8297); (viii) Momentive Performance Materials Quartz, Inc. (9929); (ix) Momentive Performance Materials South America Inc. (4895); (x) Momentive Performance Materials USA Inc. (8388); (xi) Momentive Performance Materials Worldwide Inc. (8357); and (xii) MPM Silicones, LLC (5481). The Debtors’ executive headquarters are located at 260 Hudson River Road, Waterford, NY 12188.

examination of the debtor entity and the production of documents set forth on **Exhibit A** in connection with the foregoing examination or as otherwise set forth in Bankruptcy Rule 9016.

The Rule 2004 Examination of the Debtors is requested for the following reasons:

1. Movants are plaintiffs in a personal injury case currently pending in the United States District Court for the Southern District of West Virginia, Charleston Division, West Virginia (“PI Action”) styled *Brian Tucker and Sherri Tucker, his wife v. Momentive Performance Materials USA Inc., et. al.*, 2:13-cv-04480.
2. Debtors filed a Motion before this court to expunge Movants’ claims, alleging, inter alia, that the claims are governed by the West Virginia Workers’ Compensation Statute (“Claim Motion”) which immunizes employers from a personal injury lawsuit for work place injuries.
3. Movants object to Debtors’ Claim Motion averring discrete violations of federal and state statutes which would remove the personal injury claims from the workers’ compensation statute.
4. Movants tried informally to obtain the general liability policies maintained by debtors for the relevant period to no avail.
5. Such information is critical to determining whether Debtors have assets, in the form of insurance, from which this unliquidated claim may be satisfied. Consequently, Movants wish to fix a date by which Debtors shall provide Movants with complete documentation regarding Debtors’ underwriting history from 1977 to the present, and of all contracts of insurance potentially applicable to claims arising from work place personal injuries by employees from 1977 through the present and to examine the person or persons most knowledgeable with respect to the documents and the relevant

underwriting history.

WHEREFORE, Movants respectfully request that this Court issue an Order, pursuant to Bankruptcy Rule 2004, which requires the Debtors (1) to produce the documents listed in Exhibit A to the undersigned counsel within ten (10) days of entry of said order, and (2) to produce for examination representatives of the Debtors who are familiar with the documents and with Debtors' relevant underwriting history within thirty (30) days of this Court entering such an Order.

Dated: April 27, 2015

GREEBAUM, ROWE, SMITH &
DAVIS, LLP
Attorneys for Brian Tucker & Sherrie
Tucker

By: /s/ Nancy Isaacson
Nancy Isaacson

CERTIFICATION OF SERVICE

The undersigned hereby certifies that the foregoing *Cross Motion for Order for the Examination of the Debtors Pursuant to Bankruptcy Rule 2004* was electronically transmitted on or about April 27, 2015, via the Court's CM/ECF system to all parties listed on the Court's Electronic Mail Notice list and by U.S. Mail to the followings:

Matthew A. Feldman
Rachel C. Strickland
Jennifer J. Hardy
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, New York 10019
Telephone: (212) 728-8000
Facsimile: (212) 728-8111

Dated: April 27, 2015

GREEBAUM, ROWE, SMITH &
DAVIS, LLP
Attorneys for Brian Tucker & Sherrie
Tucker

By: /s/ Nancy Isaacson
Nancy Isaacson

EXHIBIT A

1. The entire underwriting file relevant to general liability insurance maintained by Momentive Performance Materials USA, Inc. from January 1, 1977 through present.

2. Any and all liability insurance policies, declaration pages and dec sheets maintained from January 1, 1977 through present.